



Serving People With Disabilities And Senior Citizens
The Protection and Advocacy System for Louisiana

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June 26, 1998

Federal Communications Commission
Office of the Secretary
1919 M Street, NW, Room 222
Washington, D.C. 20554

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RE: Comments to Proposed Rule WT Docket No. 96-198

Enclosed are an original and nine copies of our comments to the proposed rules to implement Section 255 of Telecommunications Act of 1996.

We appreciate the opportunity to submit these comments for consideration prior to development of the final rules.

Sincerely,

A handwritten signature in cursive script, reading "Ann Maclaine".

Ann Maclaine
Assistive Technology Program Coordinator

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of
Implementation of Section 255 of the
Telecommunications Act of 1996

WT Dkt. No. 96-198

COMMENTS OF THE ADVOCACY CENTER

I. Introduction

The Advocacy Center, the protection and advocacy agency for persons with disabilities in the State of Louisiana, submits these comments on its proposed Section 255 rules. Our agency provides protection and advocacy services, including legal representation, to persons with disabilities throughout our state. In this capacity, we are aware of the many barriers that inaccessible communication systems create for persons with disabilities. We have experienced the effects of those barriers firsthand as we attempt to communicate effectively with our own clients with disabilities. We are trying to keep up with the advances in technology that facilitate communication, and are concerned that such advances be fully accessible to persons with disabilities and those who communicate with them.

We thank the FCC for issuing these proposed rules, which clearly reflect a great deal of thought on a highly technical subject. Increased access to telecommunications is critical to persons with disabilities, whose needs must be fully considered in the design, development and manufacture of telecommunications products and services. Enhanced access benefits the entire community, which will have opportunities to communicate more easily with persons with disabilities in educational, business, commercial, and recreational settings. Access for persons with disabilities is good business.

II. Suggestions and Comments

We offer the following suggestions and comments regarding these proposed rules:

A. Access Board Guidelines

The proposed rule gives deference to the guidelines developed by the Access Board on February 3, 1998, and includes them in an

appendix, but does not formally adopt them as a whole. Instead, some provisions are explicitly endorsed or rejected, some are implicitly accepted or rejected, and other are not clearly referred to at all. This will create a great deal of ambiguity as people attempt to interpret and cross reference these two related, highly technical documents.

The Access Guidelines were developed through a careful, thoughtful process, after consideration of a wide range of input. For the purposes of thoroughness and clarity, we urge the Commission to explicitly adopt all of these guidelines. They provide important details that can and should be applied to service providers as well as equipment manufacturers.

B. "Readily Achievable" Analysis

The definition of this standard is critical. To be effective, it requires a balancing of several factors. We agree that technical feasibility should be a factor in determining whether access can be achieved. However, we oppose the inclusion of time required for recovering the cost of implementing the accessibility strategy, the market demand for the accessible product, and the so-called "opportunity costs" of providing the accessibility. These are not permissible factors under the ADA and should not be included in a "readily achievable" analysis under Section 255.

We also propose that further guidance be included regarding how and when "technical infeasibility" exists. This area is new and unfamiliar to many telecommunications providers, who should be required to consult with accessibility experts before determining that a proposed accessibility enhancement is not technically feasible.

C. Universal design

We support the proposed rule's requirement of an assessment of accessibility and compatibility for each product. This is required by the statute, and will further its goal of achieving universal design, where readily achievable, for as many as is possible.

D. Enhanced Services

We are deeply concerned that the proposed rule's efforts to distinguish among "basic services", "enhanced services", and

"adjuncts to basic telecommunications services" unnecessarily narrows the scope of services covered by the rule and the Act. Advances in this field are exponential; what seems "enhanced" today may very well be "basic" tomorrow, or at least by the time lawmakers and rule makers can revisit and amend their definitions. We therefore urge as broad a definition as legally possible of the services covered by Section 255 and the rule. The intent of the statute was to achieve universal telecommunications access. This cannot be realized if consumers with disabilities only have access to services and products that are several years behind the "cutting edge". In our own non-profit agency, which has funding restraints that make access to the latest technology cost-prohibitive, or available on a delayed basis, we have experienced the limitations of being "out of the loop" in the information highway. This experience will be even more limiting for persons with disabilities who are not able to access cutting edge services.

E. Complaint Process

We support the following components of the proposed complaint procedure:

- no filing fees for informal or formal complaints; waiver of filing fees for Section 255 complaints against common carriers
- no time limit for filing complaints
- permitting consumers with disabilities to submit complaints by any accessible means available
- requiring manufacturers and services providers to designate contact points in their companies that are accessible to consumers with disabilities.

We strongly oppose a requirement that consumers first receive approval from the FCC before being permitted to bring a formal complaint. This is not a requirement of other formal complaints brought before the Commission and should therefore not be required for complaints under this section.

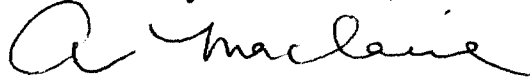
We further request clarification of the proposals regarding classification of complaints as "informal" and "formal" and, in particular, when, how, and by whose determination an individual

with a complaint may move from the "fast track" to these other processes. We have discovered through our experiences with a wide variety of complaint systems that 1) they must be very clearly designed so that complainants understand the system and 2) they must contain safeguards to insure that due consideration is given to every complaint. This is especially important where, as here, complaint to the FCC is the only remedy for persons seeking enforcement of the act. Leaving this to be worked out on a case-by-case basis is not appropriate. When the agency which receives the complaints has total discretion in how to treat complaints, with no clearly stated procedures and standards to insure a careful consideration, through a consistent process, of all complaints, there is a perception that complainants do not really have any meaningful rights.

III. Conclusion

Thank you for the opportunity to submit these comments. We ask that you act promptly to issue final rules that will allow full access to telecommunications by persons with disabilities.

Respectfully submitted,



Ann MacLaine, Director of Legal Services, Assistive Technology
Program Coordinator



Lois V. Simpson, Executive Director

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